

BEFORE THE GRANT REVIEW COMMITTEE
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING ON
amendment and transfer of ARM)	PROPOSED AMENDMENT AND
14.4.101, 14.4.102, 14.4.103,)	TRANSFER, TRANSFER, AND
14.4.104, transfer of 14.4.105,)	REPEAL
and the repeal of 14.4.106)	
pertaining to the award of)	
training grants by the Grant)	
Review Committee)	

TO: All Concerned Persons

1. On September 7, 2005, at 1:30 p.m., a public hearing will be held in Room 228, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and transfer, transfer, and repeal of the above-stated rules.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5:00 p.m. on August 24, 2005, to advise us of the nature of the accommodation that you need. Please contact Gary Morehouse, Business Resources Division, 301 South Park Avenue, P.O. Box 200505, Helena, Montana 59620-0505; telephone (406) 841-2732; facsimile (406) 841-2731; TDD (406) 841-2702; e-mail to gmorehouse@mt.gov.

3. STATEMENT OF REASONABLE NECESSITY: As part of the periodic review of administrative rules, and in conjunction with Chapter 169, Laws 2005 (HB 270 [Lindeen]) transferring the Grant Review Committee from the Governor's Office to the Department of Commerce, the Committee is proposing a number of revisions to Committee rules. The Committee determined that it is reasonably necessary to amend the rules to, among other things, eliminate the necessity of a pre-application for worker training grants, and the statement that a training grant could be disbursed in its entirety to the company as soon as funds were available. Accordingly, the Committee determined that there is reasonable necessity to generally amend certain existing rules, and to repeal a certain existing rule related to employer workforce training credits, because those credits are no longer a source of funding. Some of the proposed amendments are technical in nature, such as the proposed renumbering of the rules to designate where the rules are to be placed when transferred from ARM Title 14 (Governor's Office) to ARM Title 8 (Department of Commerce). This statement of reasonable necessity applies to all the proposed rule actions.

4. The rules proposed to be amended and transferred provide as follows, stricken matter interlined, new matter underlined:

14.4.101 DEFINITIONS As used in this chapter, the following definitions apply:

(1) remains the same.

(2) "Committee" means the loan grant review committee, ~~also sometimes referred to as the grant review committee,~~ established in 39-11-201, MCA.

(3) "Department" means the department of commerce established in 2-15-1801, MCA.

~~(3)~~ (4) "Grant" means the workforce training grant made by the committee to a qualifying company.

~~(4) "Office of economic development" means the office of economic development established in 2-15-218, MCA.~~

(5) "Previously existing job" means a full-time job, or a substantially similar full-time job, which was part of a company's payroll in Montana ~~during the three years~~ immediately preceding the date of the commencement of the project. ~~A job created after commencement of a project but prior to a grant award is not considered to be "previously existing" for the purposes of grant eligibility.~~

(6) "Project" means a company's hiring and training plan to provide workforce training for workers to obtain the skills needed for new jobs to be created in Montana by the company that is set forth in an application for a grant.

(7) remains the same.

AUTH: Sec. 39-11-201, MCA

IMP: Sec. 39-11-201, MCA

14.4.102 GRANT APPLICATION PROCEDURE (1) A project commences on the date a preliminary Montana new jobs cooperative training agreement contract for the project is signed by the company and the ~~office of economic development department.~~

~~(2) Within 90 days from the effective date of a preliminary Montana new jobs cooperative training agreement, an application for a grant must be submitted by the company to the office of economic development.~~

~~(a) The office of economic development shall create a primary sector business new jobs training application designed for that purpose.~~

~~(b) The committee has the right to extend the 90 day application deadline, at its sole discretion.~~

~~(3)~~ (2) When an application for a grant is received by the ~~office of economic development,~~ it department, the application will be reviewed by ~~office of economic development department~~ staff to determine whether the application has been completed by the company in accordance with the guidelines provided in ARM 14.4.103.

(a) and (b) remain the same.

AUTH: Sec. 39-11-201, MCA
IMP: Sec. 39-11-201, MCA

14.4.103 INCORPORATION BY REFERENCE OF RULES GOVERNING SUBMISSION AND REVIEW OF APPLICATIONS FOR GRANTS SUBMITTED TO COMMITTEE (1) The committee adopts and incorporates by reference the ~~Montana Primary Sector Business New Jobs Workforce Training Grant (WTG)~~ Program Application Guidelines dated ~~2003~~ 2005 published by it as rules governing the submission and review of applications under the program. A copy of the guidelines may be obtained from the ~~Office of Economic Development, Governor's Office~~ Department of Commerce, P.O. Box ~~200801~~ 200505, Helena, MT 59620-~~0801~~ 0505 and on the department's website at <http://commerce.mt.gov/indexBRD.asp> or at mtfinanceonline.com.

(2) The rules incorporated by reference in (1) relate to the following:

- (a) remains the same.
- ~~(b) executing a preliminary agreement;~~
- ~~(c) (b)~~ requirements for marking submitted materials as confidential and for protecting such information;
- ~~(d) (c)~~ submission of a formal grant application and required business plan and hiring and training information;
- ~~(e) (d)~~ contract required prior to grant award;
- ~~(f) (e)~~ timing of grant award relative to employee hiring; and
- ~~(g) (f)~~ periodic audit and review requirements.

(3) Prior to a grant being awarded, the company receiving the grant will be required to enter into a contract with the ~~office of economic development department~~. The contract will, at a minimum, specify the following:

(a) projected increase in number of employees ~~and the company's annual payroll~~ current and projected at the expansion site and for any other operations within the state of Montana. Employee information provided in the grant application must include projections for:

- (i) through (d) remain the same.
- ~~(e) a provision requiring the full amount of the grant to be reimbursed to the state of Montana in the event the company ceases operation within 12 months of the time of the grant award~~ certification that the amount of the grant already expended will be reimbursed in the event that the primary sector business ceases operation in the state of Montana within the grant contract period;
- ~~(f) a requirement for the company to repay any shortfall in personal income tax revenues to the state that are a result of the company failing to meet the number of jobs or wage levels to which the company committed in the contract; and~~
- ~~(g) (f)~~ a requirement for annual reporting to the ~~office of economic development department~~, with each request for funds and bi-annually, the current number of jobs and wage levels for the company's Montana operations.

AUTH: Sec. 39-11-201, MCA

IMP: Sec. 39-11-201, 39-11-202, MCA

14.4.104 GRANT AWARD CRITERIA (1) through (4) remain the same.

~~(5) A grant for worker training may be given in its entirety to the company as soon as funds are available following the committee's approval of the grant. The committee may, at its discretion, disperse the granted monies to the company in portions over time, depending on the length of the anticipated worker training period. The employer may receive grant funds during the contract period only upon documenting the creation of eligible jobs, the hiring of employees for the jobs, and the incurring of eligible training expenses.~~

(6) In calculating the wages for purposes of meeting the minimum wage criterion to qualify for a grant, the committee will compare the projected hourly wages and benefits for each employee to be trained to the average hourly wage for the county or state, whichever is lower. The department will divide the current average weekly wage for the county or state by 40 hours to obtain the average hourly wage and benefits for this purpose.

~~(a) estimate the sum of total gross wages (including bonuses and commissions) and total value of benefits paid, during the succeeding 52 week period, commencing at the time of the actual grant dispersal; and~~

~~(b) divide the sum amount determined in (6)(a) by 52.~~

AUTH: Sec. 39-11-201, MCA

IMP: Sec. 39-11-201, 39-11-202, MCA

5. The Committee proposes to transfer the following rule:

14.4.105 AUDIT CRITERIA found at ARM page 14-56.

AUTH: Sec. 39-11-201, MCA

IMP: Sec. 39-11-201, 39-11-202, MCA

6. The Committee proposes to repeal the following rule:

14.4.106 INCORPORATION BY REFERENCE OF RULES GOVERNING EMPLOYER WORKFORCE TRAINING CREDIT AS ADOPTED BY THE DEPARTMENT OF REVENUE found at ARM page 14-56.

AUTH: Sec. 39-11-201, MCA

IMP: Sec. 39-11-201, MCA

7. Interested persons may submit their data, views or arguments concerning the proposed amendment, transfer and repeal orally or in writing at the hearing. Written data, views or arguments may also be submitted to Gary Morehouse, Business Resources Division, Department of Commerce, 301 S. Park Avenue, PO Box 200505, Helena, Montana 59620-0505, by

facsimile to (406) 841-2731, or by e-mail to gmorehouse@mt.gov to be received no later than 5:00 p.m., September 14, 2005.

8. An electronic copy of this Notice of Proposed Amendment is available through the Department's site on the World Wide Web at <http://commerce.mt.gov>. The Department strives to make the electronic copy of this Notice of Proposed Amendment and Transfer, Transfer, and Repeal conform to the official version of the Notice as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

9. The department of commerce maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Division. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Business Resources Division administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Business Resources Division, 301 S. Park Avenue, PO Box 200505, Helena, Montana 59620-0505 or by phone at (406) 841-2732, or may be made by completing a request form at any rules hearing held by the agency.

10. Marty Tuttle, chief legal counsel, has been designated to preside over and conduct this hearing.

11. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

DEPARTMENT OF COMMERCE
GRANT REVIEW COMMITTEE

By: /s/ ANTHONY J. PREITE
ANTHONY J. PREITE, DIRECTOR
DEPARTMENT OF COMMERCE

By: /s/ G. MARTIN TUTTLE
G. MARTIN TUTTLE, RULE REVIEWER

Certified to the Secretary of State August 1, 2005

15-8/11/05

MAR Notice No. 8-99-47